

COLORADO STATE BOARD OF PHARMACY
February 17, 2011

Minutes

The Colorado State Board of Pharmacy meeting was convened by President Jeannine Dickerhofe, R.Ph., at approximately 8:30 a.m. on Thursday, February 17, 2011 at 1560 Broadway, Conference Room 1550, Denver, CO 80202. Notice of this meeting was given in accordance with Division of Registrations Policy Number 80-17.

Board members attending were: Mary K. Arceneaux, R.Ph., Jeannine Dickerhofe, R.Ph., E. Katherine Edelblut, R.Ph., Paul Limberis, R.Ph., Luis A. Rivera-Lleras, R.Ph.; and Averil Strand, R.N.

Staff members attending were Wendy Anderson, R.Ph., Program Director; Susan Martin, R.Ph., Inspector; Chris Gassen, R.Ph., Chief Inspector; Mark O'Neill, R.Ph., Inspector; Lisa Cornett, R.Ph., Inspector; and Linda Acosta, Complaint and Licensing Specialist. Also present was Jo Kaye, Assistant Attorney General, to advise the Board.

APPROVAL OF MINUTES

The Board approved the minutes from the January 20, 2011 meeting as amended.

APPEARANCES

None.

ADDITIONS TO THE AGENDA

None.

HEARINGS

None.

REPORTS

President's Remarks

None.

Program Director's Report

Ms. Anderson requested that the Board delay its review of Board Policy 30-8, regarding the Prescription Drug Monitoring Program—Pharmacies that Fail to Submit Required Data to the Prescription Drug Monitoring Program Prescription Drug Monitoring Program, until the next regularly scheduled Board meeting. The Board agreed to table further review of this policy until that time.

Ms. Anderson presented the Board with policy changes from Peer Assistance Services. The Board noted the information.

Ms. Anderson also explained to the Board that the Prescription Drug Monitoring Program Sunset Bill (SB 11-114) was passed out of the Senate Health and Human Services Committee and was referred to the Appropriations Committee.

Colorado Pharmacists Society (CPS) – Paul Limberis, RPh

The 2011 Advances in Pharmacy Practice will be held on February 26, 2011. This full day annual education seminar will be held in conjunction with the University of Colorado Denver School of Pharmacy and 6 hours of continuing education (CE) will be offered. The topics will include: a new drug update; opportunities in primary care pharmacy practice; immunosuppressants used in organ transplantation; and pharmacotherapies used in the treatment of obesity, multiple sclerosis, and rheumatoid arthritis.

Planning has already begun for the Annual Summer Meeting to be held on June 9-11, 2011, in Estes Park, Colorado, where 10 hours of CE will be offered.

The American Society of Health-System Pharmacists Annual Summer Meeting will be held June 12-15, 2011, at the Convention Center in downtown Denver, and it will provide an excellent opportunity for continuing education and networking.

CPS will once again partner with the 9 Health Fair on April 9-17, 2011, and is helping Fair organizers get pharmacist volunteers for designated sites throughout Colorado.

Governor's Expert Emergency Epidemic Response Committee (GEEERC) – Paul Limberis, RPh

The meeting of the GEEERC was held on February 10, 2011. Christopher Urbina M.D., MPH, was introduced as the new Executive Director and Chief Medical Officer of the Colorado Department of Public Health and Environment. An introduction of all the members present followed. The minutes from the July 1, 2010 meeting were approved.

Rachel Coles, M.A., Community Liaison Emergency Preparedness and Responses Division, provided a presentation on "Emergency Preparedness for Diverse Populations". Since 2006, this program has partnered with over 30 area ethnic and diverse population organizations to facilitate training for Emergency Preparedness. The projects overall goals are:

- To work with local jurisdictions in incorporating emergency planning for diverse populations, with input from the diverse communities in a statewide effort; and
- To create a culture of preparedness within diverse populations that is sustainable and independent.

The GEEERC approved two action items in support of this program for 2011. They are as follows:

- **Tracking vulnerable populations:** Acquisition of data from particular sources makes it difficult to know where vulnerable populations are. **Action Item:** Set policy to allow intra-governmental agencies to acquire necessary data prior to an emergency to locate vulnerable populations for planning purposes; and
- **Lack of access to medication:** Before a disaster, low income people have trouble acquiring extra medications for ready kits because of insurance barriers or restrictions on controlled substances. During a disaster there is still a shortage. **Action Item:** Set policy to encourage insurance and regulatory agencies to work

with persons on chronic medications to allow extra medications for emergency preparedness, such as copayments for more than one month.

Julie Reiskin, LCSW, Executive Director for the Colorado Cross-Disability Coalition, provided the next presentation on Disability Prevalence in Colorado and the health and emergency related needs of people with disabilities. Ms. Reiskin reported that the most important need is to see people with disabilities as a group that has abilities and assets to contribute to the community in times of emergency, as well as in the normal course of business. Members of this community are able to assist in working with populations with cognitive impairments and in developing cultural competencies for providers in working with people with disabilities.

An update on the EPRD (Emergency Preparedness and Response Division) was given by Chris Lindley, Director of EPRD; Natalya Verscheure, Grant Manager; and Lyle Moore, Hospital Preparedness Program Manager. It was noted that 60% of the core of the Public Health Preparedness Emergency Grant is distributed to Local Public Health Associations. This is 15% more than that distributed to local public health associations in other states. Items identified for EPRD and GEEERC to work on in 2011 include:

- Alternate care settings in emergencies – creating an executive order;
- Alternate standards of care (Nurse/Patient ratios);
- Relaxing of prescribing regulations;
- Expand list of health care workers providing injections;
- Patient Health Information (PHI) – used in emergencies; and
- Use of non-traditional emergency transport vehicles.

The next Meeting of the GEEERC is planned for Thursday, May 12, 2011.

Intern & School Relations – Jeannine Dickerhofe, RPh

Dr. Catherine Jarvis, Assistant Dean of the University of Colorado Denver School of Pharmacy, reported that the school is currently interviewing 350 candidates for the next incoming class size of 160 students, and that community pharmacists are participating in the interview process. She also reported that the school itself is in the process of physically moving into its new facilities. Dr. Jarvis further reported that the school is currently undergoing a revision to its curriculum for implementation in the fall of 2012.

Jeannine Dickerhofe reported on behalf of the Regis University School of Pharmacy that the school is in the process of interviewing candidates for the Class of 2015 for a class size of 75 students. Ms. Dickerhofe also reported that the school is still actively recruiting a new dean as well as additional faculty members. Ms. Dickerhofe further reported that the school will submit an interim report to the Accreditation Council for Pharmacy Education as part of the school's accreditation process.

Legislation - Jeannine Dickerhofe, RPh

Jeannine Dickerhofe reported on the progress of the following bills for the 2011 Legislative Session:

- Senate Bill (SB 11-114) – Prescription Drug Monitoring Program Sunset;
- Senate Bill (SB 11-088) – Midwives Sunset;
- House Bill (HB 11-1143) – Off Label Use of Prescription Drugs;
- Senate Bill (SB) 11-043 – Safe Collection and Proper Disposal of Home-Regulated Sharps Disposal Containers; and
- Other anticipated bills may address health insurance exchanges, accountable care organizations, and e-prescribing.

Inspectors

None.

OLD BUSINESS

Complaints

Wendell Almeida, RPH 11053 & Case 2010-3845

The Board reviewed an agenda memorandum from Inspector Mark O'Neill and voted to refer the case to Executive Session to discuss confidential information within the memorandum.

After Executive Session, the Board voted unanimously to dismiss the case as being without merit.

Stipulations

Robert E. Lapp, Jr., RPH 11555 & Case 2009-1290

The Board reviewed an agenda memorandum from Inspector Chris Gassen and voted to refer the matter to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the matter. The Board found that there was no reasonable cause to warrant further action at this time.

NEW BUSINESS

Complaints

Capitol Heights Pharmacy, PDO 30

2011-1725

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Loren D. Edwards, RPH 9838 **2011-1726**

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Cardinal Health (Pharmaceutical Supply), WHI 6012 **2011-2661**

The Board voted unanimously to refer the case to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to dismiss this case as being without merit.

Brenda Correa, RPH 17501 **2011-1530**

Paul Limberis Recused.

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Mary A. Davis, RPH 13484 **2011-2052**

Mary Arceneaux Recused.

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Stanley E. Hren, RPH 9221 **2011-1450**

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss this case as being without merit.

Laura R. Kling, RPH 16307 **2011-2106**

The Board voted unanimously to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act.

Barry Patterson, RPH 13026 **2011-1325**

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act.

Walgreen Pharmacy # 5261, PDO 108-14

2011-1727

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Gregory J. Hanson, RPH 16303

2011-1728

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

LICENSING/REGISTRATION

Tri-anim Health Services, Inc., WHI 6077

The Board reviewed the in-state prescription drug wholesaler application originally submitted by Tri-anim Health Services, Inc. and, after due consideration of the available information, voted unanimously to refer the matter to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the matter. The Board found that there was no reasonable cause to warrant further action at this time.

MISCELLANEOUS

Correspondence, etc.

Caremark Kansas Specialty Pharmacy, L.L.C., OSP 5155

The Board reviewed an agenda memorandum from Inspector Chris Gassen and, after due consideration of the available information, voted unanimously to refer the matter to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the matter. The Board found that there was no reasonable cause to warrant further action at this time.

Complaint from Monty Winter

The Board reviewed an agenda memorandum from Inspector Mark O'Neill and, after due consideration of the available information, voted unanimously to refer the matter to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to refer the nurse practitioner involved in the matter, along with Inspector O'Neill's agenda memorandum, to the Colorado State Board of Nursing for its review.

Correspondence from Edie Sonn Concerning Auto-refilling of Prescriptions

The Board reviewed information from Edie Sonn concerning the auto-refilling of prescriptions.

After due consideration of the available information, the Board noted that its understanding of this practice is that patients must agree to participate in the auto-refilling of their prescriptions. The Board further noted that Board Rule 3.00.50(d) dictates that the pharmacist conducting the final evaluation of any refilled prescription is also held accountable “for the appropriate dispensing of refills”.

Correspondence from Grant Kinn at RxPlus Pharmacies

The Board reviewed information from Grant Kinn at RxPlus Pharmacies concerning the transfer of prescription drugs among pharmacies and its potential link to the pedigree requirements imposed by Colorado law.

After due consideration of the available information, the Board voted unanimously to refer the matter to Executive Session for legal advice.

After Executive Session, the Board noted that it interprets the wholesaler statute in Part 8 in a sensible and harmonious manner with Part 1 of Title 12, which references “casual sale”, so as to give a sensible and workable meaning to both parts.

Edwin E. Gonyou, RPH 10393

Mary Arceneaux Recused.

The Board reviewed an agenda memorandum from Inspector Chris Gassen.

After due consideration of the available information, the Board voted unanimously to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act.

King Soopers Pharmacy Immunization Services

Mary Arceneaux Recused.

The Board reviewed an agenda memorandum from Inspector Mark O'Neill and, after due consideration of the available information, voted unanimously to refer the matter to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to initiate a complaint against the pharmacist license of Thomas H. Williams (RPH 11833) for his alleged failure to complete all requirements prior to receiving a certification of immunization course completion and prior to immunizing patients.

Luxury Nail Spa

The Board reviewed an agenda memorandum from Program Director Wendy Anderson and, after due consideration of the available information, voted unanimously to refer the matter to Executive Session for legal advice.

After Executive Session, the Board noted the information.

Teva Neuroscience, d/b/a Shared Solutions Pharmacy, OSP 5520

The Board reviewed an agenda memorandum from Inspector Mark O'Neill and, after due consideration of the available information, noted the information.

ANNUAL PLANNING MEETING

Pharmacy Technician Certification

After due consideration of the available information, the Board voted unanimously to refer the matter to Executive Session for legal advice.

After Executive Session, the Board noted that it does not possess the statutory authority to require pharmacy technician certification at this time.

Definition of Coercion

The Board discussed the application of coercion to its current statutes and rules, including Board Rule 1.00.18(b), which currently prohibits an employer from interfering with the professional judgment of a pharmacist to advise the patient regarding a prescription.

After due consideration of the available information, the Board directed its staff to submit amended language to Board Rule 1.00.18(b) for a future public rules hearing for review.

Board Rule 3.01.10(b) – Request from Nanette Tinker to Amend Board Rule 3.01.10(b)

The Board discussed hospital pharmacy settings with patient's own medications and its application to Board Rule 3.01.10(b), which currently prohibits the dispensing or distribution of a prescription drug from a location other than where originally packaged, unless the dispensing or distribution occurs at a location that is under the same ownership as, or is contractually affiliated with, the location where originally packaged.

After due consideration of the available information, the Board directed its staff to research the topic further, and to potentially submit proposed amendments to Board Rule 3.01.10(b) for its review at a future Board meeting.

EXECUTIVE SESSION

At 11:06 a.m., Board President Jeannine Dickerhofe moved that the Board enter into Executive Session.

The motion was seconded. The vote was unanimous with five votes approving the motion to go into Executive Session and none opposing.
The Board exited Executive Session at 1:46 p.m.

Open Session

Henry Schein, Inc., WHO 7115 & Case 2011-1806

The Board voted unanimously to rescind its previous referral of this case pursuant to policy from the Office of Expedited Settlement and to refer the case to Executive Session for discussion of possible disciplinary action.

Cases 2008-2580, 2009-1739, 2009-1740, 2009-1741, 2009-1744, 2009-1745, 2009-1748, 2009-1749, 2009-1750, and 2010-2026

The Board voted unanimously to rescind its previous referral of the aforementioned cases from the Office of the Attorney General and to dismiss the corresponding complaints when the Stipulation and Final Agency Order regarding Case 2009-0069 becomes effective.

At 1:50 p.m., Board President Jeannine Dickerhofe moved that the Board enter into Executive Session.

The motion was seconded. The vote was unanimous with five votes approving the motion to go into Executive Session and none opposing.

The Board exited Executive Session at 1:50 p.m.

ADJOURNMENT

The Board adjourned at 1:58 p.m.

Approved by Jeannine Dickerhofe, R.Ph., President Date: April 22, 2011.